UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/262,362	03/04/1999	DORON KLETTER	105.001:1120	9276

23910 7590 02/14/2003

FLIESLER DUBB MEYER & LOVEJOY, LLP
FOUR EMBARCADERO CENTER
SUITE 400
SAN FRANCISCO, CA 94111

EXAMINER	
WU, JINGGE	
ART UNIT	PAPER NUMBER
2623	

DATE MAILED: 02/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No.	Applicant(s)	
	09/262,362	KLETTER ET AL.	
	Examiner	Art Unit	
	Jingge Wu	2623	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 June 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

   (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *see Remark*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☐ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: *15, 17-20, 30-33, 36-38, 43, 45-47*.

   Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☐ Other: _____

Primary Examiner

Remarks

Applicant's arguments with respect to claims 15, 17-20, 30-33, 36-38, 43, and 45-47 have been fully considered, but they are not persuasive.

a. Applicant argues that claim language is patentable over Macleod because Macleod discloses two alternate and separate embodiments: 1) using binary valued pixel in a selector plane to choose pixel values on either foreground or background plane; 2) outputting lower resolution image by employing gray –valued pixels for an arithmetic operation of pixels from more than one of the plural planes. "It would be impossible to combine these elements as described by the separate embodiments of Macleod et al. in order to produce the invention of claims 15, 30, 36, and 43."

Examiner strongly disagrees. In the instant case, first, the resolution of output image should not be a factor for determining the patentability o f the broad claim language because there is no any language related to the resolution of the image in the claim. Second, there are no two separate and exclusive embodiments to decompress images as Applicant **wrongly** asserts. Macloed **expressly** teaches the claimed language in Fig. 25b, in step 2510, "create gray-value pixel map from selector plan - - - - gray-scale values consisting of the scaled sum of the binary pixels contributing to output pixels", then in step 2511, "for each output pixel compute output pixel as weighted average of foreground and background pixel values - - - -" . Moreover, Fig. 25b clearly shows that the embodiments disclosed by Macloed are not sperated, rather, the claim language is anticipated by the series operations disclosed in Fig. 25b.

b. Applicant further argues that O'Mahony does not teach selector plane, and Macleod does not teacn other elements of claim 33.

However, in response to applicant's argument, Examiner would like to point out that claim language is given its broadest reasonable interpretation. One can not show non-obviousness by attacking references individually where, as here the rejection are based on combination reference. In re Keller, 208 USPQ 871 (CCPA 1981). Also the test for obviousness is not whether the features of the reference may be bodily incorporated into the other to produce the claimed subject matter but simply what the references make obvious to one of ordinary skill in the art. In Re Bozek, 163 USPQ 545, (CCPA 1969); In re Richman 165 USPQ 509, (CCPA 1970); In re Beckum, 169 USPQ 47(CCPA 1971); In re Sneed, 710 F.2d 1544, 218 USPQ 385. in this instant case, O'Mahony is cited to show that the limitation of super-resolution is well known in the art (see page 10, page 8). Applicant can not show non-obviousness by attacking O'Mahony and Mecleod individually where, as here the rejection are based on combination references. Furthermore, O'Mahony is clearly analogous art to the present invention because they are both in image processing field, and more specifically, color image processing field, thus there is need for super-resolution selector plane for alpha blending. Therefore, It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the alpha value based on super-resolution of O'Mahony as value of the selector plane in the method of Macleod in order to achieve better selecting (for blending) capability with much less implement cost (O'Mahony, pages 4 and 5, second paragraph). By using the scheme of O'Mahony, the image

derived from super-resolution the selector plane would have much more similar appearance to the original image since the alpha value of super-resolution would create more transparent (contrast) level corresponding to the pixels in the foreground and the background planes so that the quality and efficiency of the method is improved.